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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/195,270	11/18/1998	KATSUHIRO OCHIAI	P/2054-95	4140

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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/26/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/195,270

Applicant(s)

OCHIAI ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 2-6,8-10 and 15 is/are rejected.
- 7) ☒ Claim(s) 7 and 11-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/31/02 have been fully considered but they are not persuasive as stated in the advisory action dated 1/28/03.

Applicant argues that that the unified notation does not identify the first and second broadcast stream. The examiner cites Column 8, Lines 2-7, specifically with reference to the reception instructions containing a parameter for a "signal source", which can be used to determine between a first and second broadcast signal.

Applicant also argues that the claims of the present invention discloses "programs" and that Mankovitz is only concerned with capturing program guide information. Examiner disagrees, and cites Column 8, Lines 10-13 of Mankovitz, which states, "allows the viewer to tune and display channels". Therefore, Mankovitz does receive electronic program guide data (in the VBI), but also receives programs in other parts of video stream. The examiner also notes that the term "programs", which the applicant states is explicitly recited in the claims of the present application is not recited in independent claim 15. The term "resources" is used, which is broader than the term programs.

Applicant also argues that at least one program and at least one program guide are broadcast over plural paths. Examiner sees no reference to program guide data in the claims.

Applicant also argues that Mankovitz in view of Williams fails to cure the deficiency in Mankovitz discussed above regarding the unified notation. Examiner

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assumes the deficiency the applicant is referring to the argument made with regards to the unified notation not identifying a first and second broadcast stream. See rebuttal made above in regards to this argument.

Therefore the rejection made in the Final Office Action dated 10/24/02 stands and will be repeated below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2-4, 6, 8-9, and 15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Mankovitz et al. (U.S. Patent No. 6,341,195).

Referring to claim 15, Mankovitz discloses a broadcast resource receiver receiving at least a first broadcast stream (see television 14 in Figure 1), where the broadcast resource receiver is responsive to a unified notation (Column 8, Lines 2-6). Mankovitz also discloses that the unified notation identifies a first broadcast stream and a second broadcast stream (see “channel” and “signal source” parameter of the unified notation taught at Column 8, Lines 2-6). Nowhere does the unified notation taught at Column 8, Lines 2-6 define a capture route, capture time, and inherent name, therefore, the unified notation is “independent” of these parameters.

Mankovitz also discloses a communication resource receiver receiving at least a second broadcast stream, and is responsive to the unified notation (see recorder 742 in Figure 1 and Column 8, Lines 2-6).

Mankovitz also discloses a reception route selection apparatus being responsive to the unified notation (Column 3, Lines 8-18 and Column 8, Lines 2-19), the reception route selection apparatus selecting either the broadcast resource receiver or the communication resource receiver (see Figure 1 and Column 3, Lines 8-18) for receiving one of the broadcast streams based on a broadcast time (see "start time" at Column 8, Lines 2-6).

Referring to claim 2, Mankovitz teaches a start time, end time and broadcast code at Column 8, Lines 2-6.

Referring to claims 3 and 4, Mankovitz teaches that the signal source can be over the air (radio) or a television broadcast (see Figure 1).

Referring to claim 6, Mankovitz teaches route selection for capturing a broadcast stream dependent upon a broadcast time (see Figure 1, Column 3, Lines 8-18, and Column 8, Lines 2-6).

Referring to claims 8-9, see rejection of claims 3-4, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz et al. in view of Williams et al. (U.S. Patent No. 6,157,411).

Referring to claim 5, Mankovitz teaches all the limitations in claim 15, but fails to teach that a broadcast stream can comprise an Internet broadcast program. Williams teaches storing data from multiple sources into a unified format, and that one of the sources can provide Internet broadcast streams (Column 5, Lines 62-67 and Column 6, Lines 1-5 and Column 7, Lines 21-28 and element 231 in Figure 2). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the unified data format, as taught by Mankovitz, using the URL trait data that comprises a unified data format, as taught by Williams, for the purpose of allowing a user to access additional online data (Column 4, Lines 16-20 of Williams).

Referring to claim 10, see rejection of claim 5.

Allowable Subject Matter

4. Claims 7 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

March 24, 2003


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600